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May 31, 2005

Douglas P. Thorn
Director of Settlements and Budgets
Stark County Auditor
110 Central Plaza South, Ste. 220
Canton, OH 44702-1410

Re: Stark County Port Authority and tax budget requirements of R.C. Chap. 5705
Our file no. M101.00255

Dear Mr. Thorn:

I have before me your letter, dated May 23, 2005, asking for this office's advice concerning the request received from the Stark County Port Authority ("SCPA"), for a waiver of the requirements of R.C. Chap. 5705 as such chapter may or may not apply to SCPA. I understand that although SCPA is authorized to levy a tax with the approval of the voters (R.C. 4582.40), it has never done so and does not contemplate doing so in the future. Nevertheless, I understand that for a number of years SCPA has prepared an annual "tax budget" pursuant to R.C. 5705.28, and has filed this with the Stark County Budget Commission and the Stark County Auditor.

Upon review of the materials supplied to you by SCPA, under cover of the letter from Stephen L. Paquette, the SCPA Administrator, I am in agreement with the conclusion reached by SCPA that it is not required to prepare or submit a tax budget pursuant to R.C. 5705.28. That statute specifically states as follows:

The taxing authority of a taxing unit that does not levy a tax is not required to adopt a tax budget pursuant to division (A) of this section. Instead, ... such taxing authority shall adopt an operating budget. ... The operating budget is not required to be filed with the county auditor or county budget commission. R.C. 5705.28(B)(2)(a).

Moreover, documents prepared in connection with other parts of Chap. 5705. "are not required to be filed with the county auditor or county budget commission" where the taxing unit does not levy a tax. R.C. 5705.28(B)(2)(b).

Because there is no requirement that SCPA adopt a tax budget so long as it does not levy a tax, there is no need (and no authority) for the county budget commission to "waive" such a requirement pursuant to R.C. 5705.281(A).

The "tax budget" prepared by SCPA in the past appears to be more of an

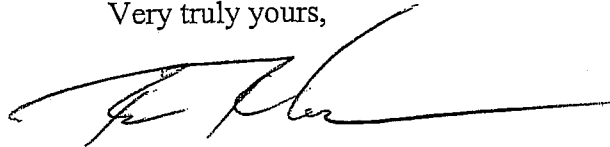
operating budget. SCPA is still be required to prepare and adopt such an operating budget annually; however, it needn't file its operating budget with the auditor or the budget commission.

Based on the foregoing, I have concluded and you are so advised as follows:

1. The Stark County Port Authority is not required to adopt a tax budget so long as it does not levy a tax.
2. SCPA is required to adopt an operating budget pursuant to R.C. 5705.28(B)(2)(a), but is not required to file such operating budget with the county auditor or with the county budget commission.
3. The waiver provisions of R.C. 5705.281(A) have no application to a taxing authority that is not required to adopt or file a tax budget.

If you have any questions concerning this opinion letter, or additional information you feel may be relevant, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Ross Rhodes', with a long horizontal flourish extending to the right.

Ross Rhodes
Assistant Prosecuting Attorney

cc: Stephen L. Paquette